

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MEMORANDUM AND ORDER

This matter is before the Court on movant's motion to vacate, set aside or correct sentence. The motion is a "second or successive motion" within the meaning of 28 U.S.C. §§ 2244 & 2255 but has not been certified by the United States Court of Appeals for the Eighth Circuit as required by the AEDPA. As a result, the motion will be dismissed.

Movant was convicted of conspiracy to knowingly transport an individual in interstate commerce with intent that such person engage in prostitution, as well as conspiracy to money launder, by a jury in early 2000. As a result of the conviction, this Court sentenced movant to 211 months' imprisonment. USA v. Evans, No. 4:00CR0003 JCH.

Movant filed his first motion to vacate pursuant to 28 U.S.C. § 2255 on June 19, 2003. See *Evans v. USA*, No. 4:03CV845 JCH. This Court denied the motion and

dismissed movant's case on June 13, 2005. Movant filed a second § 2255 motion on January 28, 2008. The Court summarily denied the motion on February 12, 2008.

Under 28 U.S.C. § 2255:

A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain--

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense . . .

Movant's motion to vacate is a second or successive motion that has not been certified by the Eighth Circuit Court of Appeals. Absent certification from the United States Court of Appeals, this Court lacks authority under § 2255 to grant movant's requested relief. As a result, the motion shall be dismissed.

Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside or correct sentence is **DENIED**.

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 18th Day of December, 2008.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE